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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,082	10/17/2005	Gerhard Mogck	MOGCK, G. ET AL 1	3247
25889	7590	11/15/2006	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			CADUGAN, ERICA E	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/538,082

Applicant(s)

MOGCK ET AL.

Examiner

Erica E. Cadugan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/8/05</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because it is not in the form of a single paragraph, and because it contains legal phraseology such as “means” or “said”. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device for “tuning” motor vehicles as set forth in claim 1; the “assembly units” of claim 1; the “coupling means” of claim 2; the “supply lines” of claim 2; the “final assembly section”, as best understood, of claim 4; each of the different embodiments of claims 6-8 wherein the motor driven elements act on the “tires”, the “wheel rims” and on the “wheel hubs”; the “means for automatically performing acceleration and braking operations” of claim 9; the “means for performing additional function tests” of claim 10; the “assembly hall” and the “means provided for the overhead conveyance of the finished vehicles out of the assembly hall” of claim 11; the “rework station” of claim 12; any modular components that perform the claimed action of “assembling” as set forth in claim 13, for example, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

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should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 sets forth the limitation that the device may be assembled on a flat surface “without creating floor load”. It is unclear how or in what way this is accomplished. It is noted that the force of gravity (i.e., via the weight of each of the modular components) will inherently create a reactionary force or load in/on the floor.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-13 are replete with instances that do not particularly point out and distinctly claim the subject matter of applicant's invention. Examples of these instances are listed below, but these instances are not limited to the listed examples. Applicant is advised to closely review the claims for other occurrences.

There are several positively recited limitations that lack sufficient antecedent bases in the claims. Examples of this are: "the conveying mechanisms" in claim 1, lines 5-6; "the assembly units" in claim 1, penultimate line; "the conveying mechanism" in claim 3 (note that even if antecedent basis is provided in claim 1 for the previous limitation "the conveying mechanisms", then there would still be an issue with respect to 35 USC 112, second paragraph with the limitation "the conveying mechanism" because plural such mechanisms were previously set forth); "the motor vehicle" in claim 5 (plural motor "vehicles" previously set forth); "the vehicle wheels" in claim 5; "the tires" in claim 6; "the wheel rims" in claim 7; "the wheel hubs" in claim 8; "the finished motor vehicles" in claim 11; "the assembly hall" in claim 11. This is not meant to be an all-inclusive list of such occurrences. Applicant is required to review the claims and correct any other such occurrences of limitations lacking sufficient antecedent basis.

As set forth in claim 5, it is unclear exactly to what ABS refers. If it can be accomplished without introducing new matter, Examiner suggests using the full name rather than the acronym ABS for clarity.

Claim 10 sets forth the limitation “wherein means are provided for automatically performing additional function tests”. As set forth in the claim, it is unclear with respect to what frame of reference any function tests would be considered “additional”, i.e., in addition to what?

Claim 13 sets forth “[I]ndividual, transportable, modular connecting components for assembling a device according to claim 1”. However, it is unclear as set forth whether it is intended that the claimed modular connecting components actually be capable of performing the action of “assembling”. If not, Examiner suggests language such as: --[I]ndividual, transportable, modular connecting components for being assembled...--.

Additionally re claim 13, it is unclear in what regard claim 13 is intended to further limit claim 1, noting that claim 1 already sets forth “individual, transportable, modular, interconnectable components”. In other words, as set forth in the claim, it is unclear whether the components of claim 13 are intended to be different from the components already set forth in claim 1. If they are intended to be the same components, it is further unclear as claimed precisely what limitations from claim 1 are intended to be encompassed by or incorporated into claim 13.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-10 and 12-13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1059222 A2 (hereinafter ‘222).

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'222 teaches a device/system for the assembling and processing of motor vehicles (see Figures 1-2, for example, also abstract). The device is composed of a plurality of "individual, transportable, modular, interconnectable components", such as 10, 20, 30 (see Figures 1-3). A plurality of central ones of the "components" 10 are arranged in a line (see paragraph 0012, for example). It is noted that the various components 10, 20, 30 are installed on a flat surface via platforms 11, 21, 31, respectively, "without using pits" (see the Figures), and, as best understood, "without creating floor load" insofar as the present invention can be considered not to create floor load. The "device" includes overhead (re claim 3) conveying mechanism 14/12 (see paragraph 0012, Figure 2, for example). The "device" also includes "assembly units", such as 22, for example, see paragraphs 0012-0013, 0021, and 0023-0024, as well as Figures 1-3, for example.

Note that '222 explicitly teaches that the units or "components" 10, 20, and 30 include assembly equipment for assembling the motor vehicles being processed, as well as measuring equipment (which would constitute a "test"), see paragraphs 0003 and 0006, for example. '222 also describes in detail the modular nature of the units or "components" (see at least paragraphs 0004, 0006-0010, and 0023-0025, for example).

Re claim 2, see paragraphs 0006, 0018, 0022, and 0023, for example.

Re claim 4, as broadly claimed, it would appear that since the line of units or "components" taught by '222 include assembly units, it inherently includes a "final" assembly section since whichever assembly unit is last in the line would be the "final" one, i.e., even if there's only one assembly unit, it's inherently the final or last one.

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Re claim 9, as set forth in the claim, '222 must inherently have some sort of "means provided for automatically performing acceleration and braking operations" on the conveyed motor vehicles, noting that if the previously-described overhead conveyance device can't be started (which starting operation would inherently include an acceleration of the conveyor/conveyed part) and stopped (which stopping operation would inherently include a "braking" operation of the conveyor/conveyed part), it would not be able to function to convey the motor vehicles as described in the specification of '222.

Re claim 1, '222 explicitly teaches that the various units or "components" are equipped for performing assembling and/or other various processing operations (paragraphs 0002, 0003, 0004, 0007, 0021-0025, and further teaches that the units shown are to be considered non-binding examples of operating units; in other words, the units shown are merely examples, and could be units equipped to perform any desired operation on the workpiece (see especially paragraph 0021). '222 does not explicitly teach that one of the units is configured to perform "tuning" of motor vehicles as set forth in claim 1.

Re claims 5-8, '222 does not explicitly teach the specific vehicle test rig claimed.

Re claim 10, other than the measuring described previously (see also paragraph 0006 of '222), '222 does not explicitly teach any means for performing "additional" function tests.

Re claim 12, '888 does not explicitly teach that one of the modules is configured as a "rework station" in a branch.

However, Examiner takes Official Notice that in the manufacture of motor vehicles, known processing during the manufacturing includes "tuning" (re claim 1), "testing", and specifically testing of a suspended motor vehicle, wherein the vehicle wheels may be set in



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rotation or braked by motor-driven elements of a roller, braking and ABS test rig, wherein said elements act upon the wheels from the side (re claim 5) of the “tires” (claim 6), “wheel rims” (claim 7), or “wheel hubs” (claim 8), (noting that such testing would appear to constitute “additional” testing re claim 10), and reworking the manufactured parts in a rework branch. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted any of the aforescribed specific known processing equipment for the generic processing equipment at various ones of the units or components 10 taught by ‘222, depending on the desires of the end user, for the purpose of providing a precision automobile (via the tuning, testing, and/or rework, for example).

***Allowable Subject Matter***

9. Claim 11, as best understood, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

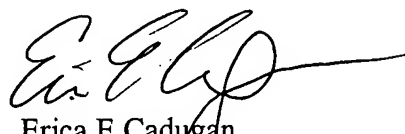
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on M-F, 6:30 a.m. to 4:00 p.m., alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Erica E Cadogan  
Primary Examiner  
Art Unit 3722

eec  
November 7, 2006